IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Crl.Rev.Pet.No. 2572 of 2007()

CRA.67/2002 of I ADDL. SESSIONS COURT, KOLLAM
ST.1677/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM

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REVN. PETITIONER:

SUNIL, S/O.RAJAN, AGED 34,
KOVOOR VADAKKATHIL,
MANAYIL KULANGARA,
THIRUMULLAVARAM,
KOLLAM WEST.

BY ADV. SRI.VIKANTH K.PUTHUMANA

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03.07.2007 , THE COURT ON 03/07/2007 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl.R.P. No. 2572 OF 2007

Dated this the 3rd day of July, 2007

O R D E R

The revision petitioner was the accused in S.T.No.1677/02 on the file of the JFCM-II, Kollam for an offence punishable under section 47 of the Kerala Police Act. He pleaded guilty to the particulars of the offence and he was thereupon sentenced to undergo simple imprisonment for one month as per order dated 2.5.02. While undergoing sentence, he preferred Crl.Appeal No.67/2002 before the Sessions Court, Kollam. Pending appeal, as per order dated 8.5.2002 in Crl.M.P.No.629/2002 he was granted bail after suspending the sentence. Subsequently, the First Additional Sessions Court, Kollam dismissed the Criminal Appeal as per the impugned judgment dated 21.1.2006 in which it is specifically noted that there was no representation for the appellant. It is the said judgment which is assailed in this revision.

2. The learned counsel for the revision petitioner submitted that the observation in the trial court's order that the petitioner is a habitual offender is not correct and that the award of

one month simple imprisonment is, therefore, unsustainable. This aspect of the matter could not be highlighted before the lower appellate court for want of representation on behalf of the revision petitioner before that court. Under these circumstances, I am inclined to give the revision petitioner one more opportunity to have his appeal disposed on the merits. Accordingly, the judgment dated 21.1.2006 in Crl. Appeal No.67/2002 on the file of the First Additional Sessions Court, Kollam is set aside and the matter is remitted to that court for disposal as afresh on merits after giving the revision petitioner an opportunity of being heard. In case the revision petitioner files a fresh application for suspending the sentence that shall be allowed in view of the earlier order dated 8.5.2002 in Crl.M.P.No.629/2002. The revision petitioner shall appear before the lower appellate court on 17.7.2007 without any further notice.

This revision is allowed as above.

(V. RAMKUMAR, JUDGE)

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